



**SUSANA MARTINEZ**  
Governor

**JOHN A. SANCHEZ**  
Lt. Governor

*State of New Mexico*  
**ENVIRONMENT DEPARTMENT**  
**Field Operations & Infrastructure Division**  
**DRINKING WATER BUREAU**  
525 Camino de Los Marquez, Suite 4  
Santa Fe, New Mexico 87505  
Telephone (505)476-8620 Fax (505)476-8656  
Toll Free 1-877-654-8720  
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**DAVID MARTIN**  
Secretary

**BUTCH TONGATE**  
Deputy Secretary

**CERTIFIED RETURN RECEIPT REQUESTED**

# 7005 1820 0001 5707 8287<sup>02</sup>

November 15, 2012

Ralph Phelps  
Rosa Joint Ventures Water System  
# 3626 CR 330  
Ignacio, Colorado 81137

**RE: Administrative Compliance Order, NO. 2012-CO-014, Rosa Joint Ventures Water System, PWS# NM3500324**

Mr. Phelps:

Please find attached Administrative Compliance Order No. 2012-CO-014, issued to Rosa Joint Ventures Water System, PWS# NM3500324, under the Environmental Improvement Act, NMSA 1978, § 74.1.10 and the Drinking Water Regulations, 20.7.10 NMAC. Please review the Administrative Compliance Order (Order) carefully to understand what actions must be taken to comply with the requirements of the Order. Rosa Joint Ventures Water System has a right to answer the allegations in the Order and request a hearing, pursuant to NMSA 1978, §§ 74.1.10.E (available at [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Jeff Pompeo, Enforcement Coordinator at 505-476-8620 or via email at [jeff.pompeo@state.nm.us](mailto:jeff.pompeo@state.nm.us).

Sincerely,

Tom Blaine PE, Division Director  
Field Operations & Infrastructure Division

cc. Nora Romero, Albuquerque Area Supervisor  
Jacob Herrera, Technical Services Specialist  
Tonia Biggs, Region 6, EPA (Electronic)  
Electronic File  
Central File

STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT  
FIELD OPERATIONS AND INFRASTRUCTURE  
DIVISION,

Complainant,  
v.

No. 2012-CO-014

Rosa Joint Ventures Water System,  
PWS# NM3500324,

Respondent.

**ADMINISTRATIVE COMPLIANCE ORDER**

Pursuant to the Environmental Improvement Act ("EIA"), NMSA 1978, § 74-1-10, and the Drinking Water Regulations ("DW Regulations"), 20.7.10 NMAC, the Secretary of the New Mexico Environment Department ("NMED"), acting through the Director of the Field Operations and Infrastructure Division of the NMED, issues this Administrative Compliance Order ("Order") to Rosa Joint Ventures Water System ("Respondent") to enforce the EIA and DW Regulations.

**FINDINGS**

1. The NMED is an executive agency within the government of the State of New Mexico and is charged with administration and enforcement of the EIA and DW Regulations.
2. Respondent owns and operates a public drinking water system ("System") located in San Juan County, New Mexico.
3. The System is a Community water system, as defined by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2, that regularly provides piped drinking water to approximately two hundred ten (210) year round residents and has approximately one hundred fifty (150) service connections to serve these year round residents.

4. Respondent, Rosa Joint Ventures Water System, is a “person” as defined by the EIA, NMSA 1978, § 74-1-3 and 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2.

5. Compliance with the Maximum Contaminant Levels (MCL) for Selenium is determined by a Running Annual Average (RAA) as required by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1).

6. Selenium samples were collected from Respondent’s Well House (EP#1) on June 2, 2011, July 12, 2011, September 1, 2011, October 6, 2011, December 12, 2011, February 2, 2012, May 1, 2012, July 5, 2012, and August 8, 2012. Analysis of the samples resulted in Selenium concentrations of 0.058 milligrams per liter (mg/L), 0.0485 mg/L, 0.0913 mg/L, 0.0458 mg/L, 0.057mg/L, 0.075 mg/L, 0.048 mg/L, 0.045 mg/L, 0.032 mg/L, and 0.055 mg/L respectively.

7. On May 21, 2012, a Notice of Violation was issued to Respondent by NMED for violation of the Selenium MCL during the first and second quarter of 2012.

8. On September 28, 2012, a Notice of Violation was issued to Respondent by NMED for violation of the Selenium MCL during the third quarter of 2012.

### **VIOLATION 1**

9. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(10), *Maximum Contaminant Levels (MCL) for Selenium*, which requires a public water system to not exceed the Selenium MCL of 0.05 mg/L. Respondent exceeded the MCL for Selenium during the first, second, and third quarter of 2012 with a RAA of 0.064 mg/L, 0.061 mg/L and 0.055 mg/L respectively.

### **RETURN TO COMPLIANCE**

Based upon the foregoing, Respondent is hereby ordered to comply with the following:

10. By January 31, 2013, submit a proposed corrective action plan to NMED which includes a schedule and identifies steps that will be taken to bring the water system into full

compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(10), *MCL for Selenium*.

11. By January 31, 2016, be in compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(10) and provide drinking water with concentrations of Selenium below the MCL of 0.05 mg/L.

12. By January 31, 2017, have a RAA for Selenium below the MCL of 0.05 mg/L and be in compliance with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1).

13. Submittals made pursuant to this Order shall be sent by standard U.S. mail or certified mail with return receipt requested to the following:

Jeff Pompeo, Enforcement Coordinator  
New Mexico Environment Department  
Drinking Water Bureau  
525 Camino de los Marquez, Suite 4  
Santa Fe, NM 87505

**IF RESPONDENT FAILS TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPHS 10 THROUGH 13 OF THIS ORDER, THE SECRETARY OF NMED MAY ASSESS ADDITIONAL CIVIL PENALTIES NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000) FOR EACH INSTANCE OF NONCOMPLIANCE WITH THIS ORDER.**

**RIGHT TO ANSWER AND REQUEST A HEARING**

Pursuant to NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matters upon which this Order is based; (b) contends that Respondent is entitled to prevail as a matter of law; or (c) otherwise contests the appropriateness

of this Order, Respondent may mail or deliver within thirty (30) days of receipt of this Order a written Request for Hearing at the following address:

Hearing Clerk  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, New Mexico 87502

Respondent must attach a copy of this Order to the Request for Hearing. 20.1.5.200.A(2)(d) NMAC.

The Request for Hearing shall include an Answer. Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Order with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, Respondent should so state, and the Respondent may deny the allegation on that basis. Any allegation in this Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

Respondent's Answer shall also include any affirmative defenses upon which Respondent intends to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.5.200.A(2)(b) NMAC.

Respondent's Answer shall be signed under oath or affirmation that the information contained therein is to the best of the signer's knowledge believed to be true and correct. 20.1.5.200.A(2)(c) NMAC.

#### **FINALITY OF ORDER**

Pursuant to NMSA 1978, §§ 61-33-10.E and § 74-1-10.E, this Order shall become final unless the Respondent files a Request for Hearing with the Hearing Clerk within thirty (30) days of receipt of this Order.

### **SETTLEMENT CONFERENCE**

Whether or not a Request for Hearing has been filed, Respondent may confer with the NMED concerning settlement of this Order. The NMED encourages settlement consistent with the provisions and objectives of the EIA and the DW Regulations. Settlement discussions neither extend the thirty (30) day deadline for filing a Request for Hearing and Answer nor alter the deadline imposed for compliance with the mandate of this Order. Settlement discussion may be pursued as an alternative to, and simultaneously with, the hearing proceedings. Respondent may appear at the settlement conference alone or accompanied or represented by legal counsel.

A Stipulated Final Order shall finalize any settlement reached by the parties. The Stipulated Final Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.

To explore the possibility of settlement in this matter, contact Jeff Pompeo, Enforcement Coordinator, Drinking Water Bureau, New Mexico Environment Department, 525 Camino de los Marquez, Santa Fe, NM 87505, (505) 476-8630.

### **COMPLIANCE WITH OTHER LAWS**

Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations. This Order does not constitute a waiver, suspension, or modification of the requirements of 20.7.10 NMAC and 20.7.4 NMAC which remain in full force and effect. Issuance of this Order is not an election by the NMED to forgo any civil or criminal action otherwise authorized under the EIA.

## TERMINATION

This Order shall terminate when Respondent certifies that all requirements of this Order have been met and the NMED has approved such certification in writing, or when the Secretary approves a Stipulated Final Order.



Tom Blaine, PE  
Division Director  
Field Operations and Infrastructure Division  
525 Camino de los Marquez, Suite 4  
Santa Fe, New Mexico 87505


12/05/12

Date

## Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on March 12, 2012<sup>13</sup> via certified return receipt requested to the following:

Mr. Ralph Phelps  
Rosa Joint Ventures Water System  
# 3626 CR 330  
Ignacio, Colorado 81137



~~Bernice Garduno~~

Jeff Pompeo